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**Remarks/Arguments:**

**I. Status**

The Office Action dated December 9, 2004 (the "Office Action") has been carefully reviewed. Claims 1, 8 and 15 have been amended. Claim 21 has been added. Accordingly, claims 1-21 are pending in this application. Reconsideration of this application, as amended, is respectfully requested.

**II. The Rejection of Claims 1-20 under 102(e) Should be Withdrawn.**

In the Office Action, claims 1-20 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,426,282 A1 to Humble (hereinafter "Humble"). The Applicant respectfully traverses.

*Discussion Regarding Patentability of Claim 1*

**1. Claim 1**

Claim 1, as amended, recites:

A method of operating a self-service checkout terminal comprising the steps of:  
initiating a checkout transaction at the self-service checkout terminal;  
obtaining weight of a produce item via a scale of the self-service checkout terminal; and  
acquiring a digital picture of the produce item via a component video camera of the self-service checkout terminal,

wherein the step of acquiring a digital picture is triggered by the step of obtaining the weight of the produce item.

Claim 1 thus recites a method wherein the step of weighing a produce item triggers the acquisition of a *digital* picture of the item with a *component* video camera

2. Humble Does Not Disclose a Digital Video Camera

The Examiner stated that Humble disclosed all of the elements of claim 1.

Respectfully, Humble does not disclose a digital camera.

Specifically, Humble merely discloses the use of a video camera. (See e.g. Humble at Abstract, column 3, lines 1-4, and column 4, lines 1-8). It is further stated that “the video information can be digitized and stored as a compressed digital image record.” (Id. at column 5, lines 5-7). Thus, since the output of the camera disclosed by Humble must be digitized, a reasonable inference is that the output of the camera is analog. However, Humble does not disclose the nature of the detecting mechanism in the camera. Therefore, Humble does not disclose acquiring a *digital* picture with a video camera.

Thus, the Applicant is not aware of any disclosure in Humble of acquiring a *digital* picture with a video camera, and the Examiner has failed to designate any such basis. Accordingly, the Applicant submits that the rejection of claim 1 should be withdrawn.

3. Video Cameras Are Not Inherently Component Video Cameras

Moreover, the Examiner stated that his principle position was that the video camera disclosed by Humble was inherently a component video camera. (Office Action at page 3). MPEP § 2112 requires the Examiner to provide rationale or evidence tending to show inherency. To establish inherency, the extrinsic evidence must show that the missing descriptive matter is “necessarily present”. (MPEP § 2112). Respectfully, all video cameras are not component video cameras.

Specifically, as discussed above, Humble merely discloses the use of a video camera. (See e.g. Humble at Abstract, column 3, lines 1-4, and column 4, lines 1-8). The Applicant has attached hereto as Attachment A, a printout of the specifications for a SONY® EVI-D100 camera listed as a surveillance type camera. As set forth in the specifications, the EVI-D100 camera provides either a composite video signal or an S-video signal. Similarly, Attachment B shows the specifications for a SONY® BRC-100 camera listed as a surveillance type camera. As set forth in the specifications, the BRC-100 camera provides either a composite video signal or an S-video signal. However, an optional card (see Attachment C) is provided which allows the BRC-100 to output a component signal. Therefore, not all video cameras are component cameras.

The Examiner has failed to provide evidence or rationale tending to show inherency as required by MPEP § 2112. Moreover, the Applicant has submitted evidence showing that not all cameras are component cameras. Therefore, Humble does not inherently disclose the recited acquiring step. Accordingly, the Applicant submits that the rejection of claim 1 should be withdrawn.

4. Humble's Video Camera Operation Is Not Triggered by Weighing

Furthermore, the Applicant has amended claim 1 to clarify that the acquisition of a digital picture is triggered by the step of weighing the produce item. One embodiment of this step is explained in the specification at page 22, wherein it is stated that "[t]he product scale software also provides a trigger for the camera driver". Claim 1, as amended, clearly distinguishes over the disclosure of Humble.

Specifically, Humble discloses a sensor 42 that detects a product in the security zone 38 so as to stop the conveyor belt. (Humble at column 3, lines 60-63). Humble also indicates that the item is then weighed. (Humble at column 3, lines 63-66). However, there is no indication as to what triggers the weighing of the item. Humble further discloses that the acquisition of a video image is “triggered whenever a product is sensed without a UPC barcode label”. (Humble at column 4, lines 8-11). The only discussion that the Applicant is aware of in Humble that relates to sensing the presence or absence of a bar code is at column 7, lines 18-29. There, it states that a pattern recognition system can be used to “discriminate product identity codes, when available.” (Humble at column 7, lines 25-27). Thus, there does not appear to be any causative relationship between the weighing of the object and the acquisition of a picture of the object.

Therefore, while Humble apparently discloses obtaining a picture of produce based upon the lack of detecting a bar code, Humble cannot fairly be said to disclose a method wherein a step of obtaining the weight of an item triggers the acquisition of a picture of the item. Thus, Humble does not disclose the recited acquiring step. Accordingly, the Applicant submits that the rejection of claim 1 should be withdrawn.

5. Conclusion as to the Rejection Based Upon Humble

For any or all of the foregoing reasons, it is respectfully submitted that the rejection of claim 1 as being anticipated by Humble has been successfully traversed, and the Applicant respectfully submits that the rejection of claim 1 under 35 U.S.C. § 102 should be withdrawn.

*Discussion Regarding Patentability of Claims 2-20*

The Examiner has rejected claims 2-20 based upon the same prior art discussed above with respect to claim 1. Claims 2-7 depend from claim 1 and include the same limitations discussed above with respect to claim 1. Therefore, for at least the same reasons set forth above with respect to claim 1, claims 2-7 are allowable over the prior art.

Claim 8, as amended, is an independent claim which recites a component video camera and program instructions to obtain a digital picture after initiating program instructions for obtaining the weight of a produce item. Claims 9-14 depend from claim 8 and include these same recitations. Therefore, for at least the same reasons set forth above with respect to claim 1, claims 8-14 are allowable over the prior art.

Claim 15, as amended, is an independent claim which recites a component video camera and program instructions to obtain a digital picture based upon program instructions for obtaining the weight of a produce item. Claims 16-20 depend from claim 15 and include these same recitations. Therefore, for at least the same reasons set forth above with respect to claim 1, claims 15-20 are allowable over the prior art.

**III. The Rejection of Claims 1-20 under 103(a) Should be Withdrawn.**

In the Office Action, claims 1-20 were alternatively rejected under 35 U.S.C. 103(a) as being obvious over Humble. The Applicant respectfully traverses.

*Discussion Regarding Patentability of Claim 1*

1. The Rejection of Claim 1 Over Humble is Improper

The Examiner has alternatively rejected claim 1 as obvious over Humble relying upon MPEP § 2112 and stating that if Humble did not inherently disclose a component video camera, it would have been obvious to modify Humble to include a component camera so as to realize a cheaper system using “old and well known types of cameras.” (Office Action at page 3). The proposed modification is improper.

Specifically, the MPEP states that “[i]t is never appropriate to rely solely on “common knowledge” in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based.” (MPEP § 2144.03, Citing to *Zurko*, 258 F.3d at 1385, 59 USPQ2d at 1697 (“[T]he Board cannot simply reach conclusions based on its own understanding or experience-or on its assessment of what would be basic knowledge or common sense. Rather, the Board must point to some concrete evidence in the record in support of these findings.”). MPEP § 2112 does not alter the requirement that every limitation in the claim must be identified in the prior art. Rather, MPEP § 2112 only states that the elements may be *inherently* taught or suggested, and that in some cases a 102/103 rejection may be appropriate. Nonetheless, the limitations must still be identified as being taught or suggested, whether explicitly or inherently, in the prior art to comply with MPEP § 2143.03. The Examiner has failed to provide any evidence in the prior art of a component video camera used to obtain a digital picture of a produce item in a self-checkout lane.

Accordingly, because the Examiner has failed to identify any art that either explicitly or inherently discloses the step of acquiring as claimed, a *prima facie* case of obviousness has not been made and the rejection of claim 1 under 35 U.S.C. 103(a) should be withdrawn.

2. The Proposed Modification Does Not Arrive at the Present Invention

As discussed above, the Examiner rejected claim 1 based upon the proposition that Humble disclosed all of the elements of claim 1, alleging that some of the elements were inherent. The Office Action then stated that “if not inherent, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Humble to include the appropriate camera”. (Office Action at page 3). Even with the modification, Humble does not arrive at the present invention.

As set forth above, Humble does not disclose that the step of weighing a produce item that triggers the acquisition of a picture of the item. Thus, even modifying Humble to include a component video camera does not arrive at the invention of claim 1. Therefore, under MPEP § 2143.03, the Examiner has failed to present a *prima facie* case of obviousness and the rejection of claim 1 under 35 U.S.C. 103(a) should be withdrawn.

3. Conclusion

Therefore, for any or all of the above reasons, the Office Action has failed to establish a *prima facie* case of obviousness over Humble under 35 U.S.C. § 103 with regard to the invention of claim 1. Accordingly, the Examiner is respectfully requested to withdraw this rejection of claim 1.

*Discussion Regarding Patentability of Claims 2-20*

The Examiner has rejected claims 2-20 based upon the same prior art and arguments discussed above with respect to claim 1. Claims 2-7 depend from claim 1 and include the same limitations discussed above with respect to claim 1. Therefore, for at least the same reasons set forth above with respect to claim 1, claims 2-7 are allowable over the prior art.

Claim 8, as amended, is an independent claim which recites a component video camera and program instructions to obtain a digital picture after initiating program instructions for obtaining the weight of a produce item. Claims 9-14 depend from claim 8 and include these same recitations. Therefore, for at least the same reasons set forth above with respect to claim 1, claims 8-14 are allowable over the prior art.

Claim 15, as amended, is an independent claim which recites a component video camera and program instructions to obtain a digital picture based upon program instructions for obtaining the weight of a produce item. Claims 16-20 depend from claim 15 and include these same recitations. Therefore, for at least the same reasons set forth above with respect to claim 1, claims 15-20 are allowable over the prior art.

**IV. Claim 21.**

Claim 21 has been added. This claim recites novel and non-obvious limitations. Accordingly, claim 21 is believed to be allowable over the prior art.



V. **Conclusion**

Applicant respectfully requests entry of the amendments and favorable consideration of the application.

A prompt and favorable action on the merits is requested.

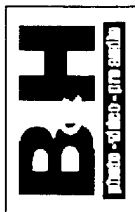
Respectfully Submitted,  
Maginot, Moore & Beck

A handwritten signature in black ink, appearing to read "James D. Wood", written in a cursive style.

James D. Wood  
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Attorney Registration No. 43,285

March 8, 2005

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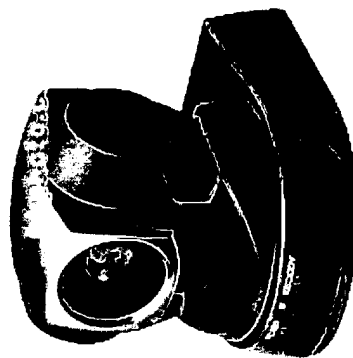
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<b>Application</b>	Video Conferencing, Web Casting
<b>Signal System</b>	NTSC
<b>Lens</b>	6.6mm to 66mm (10x Optical Zoom) f/1.8-2.9 Additional 4x Digital Zoom
<b>Number of Pixels</b>	379,000 Pixels 768 Horizontal x 494 Vertical
<b>Horizontal Resolution</b>	470 TV Lines

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<b>Minimum Illumination</b>	3.5 Lux with f/1.8
<b>Signal-to-Noise Ratio</b>	Greater Than 50dB
<b>Maximum Horizontal Field-of-View</b>	65 degrees (full wide) 6.6 degrees (full optical zoom)
<b>Pan Angle</b>	+/- 100 Degrees from center
<b>Pan Speed</b>	300 degrees/sec. maximum
<b>Tilt Angle</b>	+25 degrees upward / -25 degrees downward from horizontal
<b>Tilt Speed</b>	125 degrees / second
<b>Preset Positions</b>	6 Positions
<b>Signal Connectors</b>	<b>Composite Video-</b> RCA (x 1 output) <b>S-Video-</b> 4-Pin (x 1 output) <b>Control-</b> RS-232C (1 input, 1 output) <b>Power</b> Coaxial (x 1 input)
<b>Power Requirements</b>	10.8 to 13 volts DC
<b>Power Consumption</b>	13.2 watts maximum
<b>Operating Temperature</b>	32 to 104 degrees F 0 to 40 degrees C
<b>Dimensions (WxHxD)</b>	4 1/2 x 4 3/4 x 5 1/4 inches 113 x 120 x 132 mm
<b>Weight</b>	1 lb. 14 oz. 860 g

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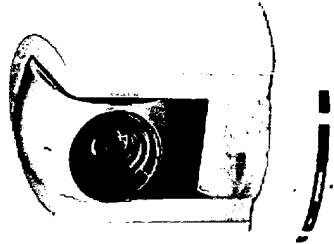
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Signal System	NTSC
Lens	3.6 mm to 46.2 mm (12x Optical Zoom) f/1.6-2.8
Number of Pixels	1,070,000 Total Pixels

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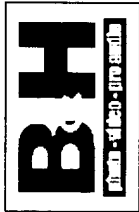
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<b>Horizontal Resolution</b>	600 TV Lines
<b>Minimum Illumination</b>	7 Lux at f/1.6
<b>Signal-to-Noise Ratio</b>	50 dB
<b>Maximum Horizontal Field-of-View</b>	37.8° in 4:3 Mode 45.4° in 16:9 Mode
<b>Pan Angle</b>	+/- 170 Degrees from Center
<b>Pan Speed</b>	Variable from 0.25° to 60° per Second
<b>Tilt Angle</b>	+90 degrees upward / -30 degrees from Horizontal
<b>Tilt Speed</b>	Variable from 0.25° to 60° per Second
<b>Signal Connectors</b>	<b>Composite Video-</b> BNC (x 1 output) <b>S-Video-</b> 4-Pin (x 1 output) <b>RS-232C/RS-422 Control-</b> 9-Pin (x 1 )
<b>Power Requirements</b>	12 Volts DC
<b>Power Consumption</b>	21.6 Watts Minimum
<b>Operating Temperature</b>	32 to 104 degrees F 0 to 40 degrees C
<b>Dimensions (WxHxD)</b>	7 1/8 x 8 3/8 x 8 1/8 inches 180 x 211 x 205 mm
<b>Weight</b>	16 Lbs. 7.3 kg

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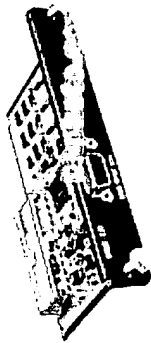
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